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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2019-061184

13 **Colin Porus Dias, M.D.**
14 **30101 Agoura Court, Suite 100**
Agoura Hills, CA 91301

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 84321,**

17 Respondent.

18
19 **PARTIES**

20 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
22 (Board).

23 2. On or about August 15, 2003, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 84321 to Colin Porus Dias, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on November 30, 2024, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code provides that a licensee who is found guilty under the
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
7 one year, placed on probation and required to pay the costs of probation monitoring, or such other
8 action taken in relation to discipline as the Board deems proper.

9 5. Section 2228 of the Code states:

10 The authority of the board or the California Board of Podiatric Medicine to
11 discipline a licensee by placing him or her on probation includes, but is not limited to,
the following:

12 (a) Requiring the licensee to obtain additional professional training and to pass
13 an examination upon the completion of the training. The examination may be written
14 or oral, or both, and may be a practical or clinical examination, or both, at the option
of the board or the administrative law judge.

15 (b) Requiring the licensee to submit to a complete diagnostic examination by
16 one or more physicians and surgeons appointed by the board. If an examination is
17 ordered, the board shall receive and consider any other report of a complete
diagnostic examination given by one or more physicians and surgeons of the
licensee's choice.

18 (c) Restricting or limiting the extent, scope, or type of practice of the licensee,
19 including requiring notice to applicable patients that the licensee is unable to perform
the indicated treatment, where appropriate.

20 (d) Providing the option of alternative community service in cases other than
violations relating to quality of care.

21 6. Section 2228.1 of the Code states:

22 On and after July 1, 2019, except as otherwise provided in subdivision (c), the
23 board and the Podiatric Medical Board of California shall require a licensee to
24 provide a separate disclosure that includes the licensee's probation status, the length
of the probation, the probation end date, all practice restrictions placed on the licensee
25 by the board, the board's telephone number, and an explanation of how the patient
can find further information on the licensee's probation on the licensee's profile page
26 on the board's online license information internet website, to a patient or the patient's
guardian or health care surrogate before the patient's first visit following the
27 probationary order while the licensee is on probation pursuant to a probationary order
made on and after July 1, 2019, in any of the following circumstances:
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1 (1) A final adjudication by the board following an administrative hearing or
2 admitted findings or prima facie showing in a stipulated settlement establishing any
3 of the following:

4 (A) The commission of any act of sexual abuse, misconduct, or relations with a
5 patient or client as defined in Section 726 or 729.

6

7 (2) An accusation or statement of issues alleged that the licensee committed any
8 of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a
9 stipulated settlement based upon a nolo contendere or other similar compromise that
10 does not include any prima facie showing or admission of guilt or fact but does
11 include an express acknowledgment that the disclosure requirements of this section
12 would serve to protect the public interest.

13 (b) A licensee required to provide a disclosure pursuant to subdivision (a) shall
14 obtain from the patient, or the patient's guardian or health care surrogate, a separate,
15 signed copy of that disclosure.

16 (c) A licensee shall not be required to provide a disclosure pursuant to
17 subdivision (a) if any of the following applies:

18 (1) The patient is unconscious or otherwise unable to comprehend the
19 disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a
20 guardian or health care surrogate is unavailable to comprehend the disclosure and
21 sign the copy.

22 (2) The visit occurs in an emergency room or an urgent care facility or the visit
23 is unscheduled, including consultations in inpatient facilities.

24 (3) The licensee who will be treating the patient during the visit is not known
25 to the patient until immediately prior to the start of the visit.

26 (4) The licensee does not have a direct treatment relationship with the patient.

27 (d) On and after July 1, 2019, the board shall provide the following
28 information, with respect to licensees on probation and licensees practicing under
probationary licenses, in plain view on the licensee's profile page on the board's
online license information internet website.

(1) For probation imposed pursuant to a stipulated settlement, the causes
alleged in the operative accusation along with a designation identifying those causes
by which the licensee has expressly admitted guilt and a statement that acceptance of
the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes
for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the
probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

1 (e) Section 2314 shall not apply to this section.

2 **STATUTORY PROVISIONS**

3 7. Section 726, subdivision (a), of the Code states:

4 The commission of any act of sexual abuse, misconduct, or relations with a
5 patient, client, or customer constitutes unprofessional conduct and grounds for
6 disciplinary action for any person licensed under this or under any initiative act
7 referred to in this division.

8 8. Section 801.01 of the Code states:

9 The Legislature finds and declares that the filing of reports with the applicable
10 state agencies required under this section is essential for the protection of the public.
11 It is the intent of the Legislature that the reporting requirements set forth in this
12 section be interpreted broadly in order to expand reporting obligations.

13 (a) A complete report shall be sent to the Medical Board of California, the
14 Osteopathic Medical Board of California, the California Board of Podiatric Medicine,
15 or the Physician Assistant Board with respect to a licensee of the board as to the
16 following:

17 (1) A settlement over thirty thousand dollars (\$30,000) or arbitration award of
18 any amount or a civil judgment of any amount, whether or not vacated by a settlement
19 after entry of the judgment, that was not reversed on appeal, of a claim or action for
20 damages for death or personal injury caused by the licensee's alleged negligence,
21 error, or omission in practice, or by the licensee's rendering of unauthorized
22 professional services.

23 (2) A settlement over thirty thousand dollars (\$30,000), if the settlement is
24 based on the licensee's alleged negligence, error, or omission in practice, or on the
25 licensee's rendering of unauthorized professional services, and a party to the settlement
26 is a corporation, medical group, partnership, or other corporate entity in which the
27 licensee has an ownership interest or that employs or contracts with the licensee.

28 (b) The report shall be sent by any of the following:

(1) The insurer providing professional liability insurance to the licensee.

(2) The licensee, or the licensee's counsel.

(3) A state or local governmental agency that self-insures the licensee. For
purposes of this section, "state governmental agency" includes, but is not limited to, the
University of California.

(c) The entity, person, or licensee obligated to report pursuant to subdivision (b)
shall send the complete report if the judgment, settlement agreement, or arbitration
award is entered against or paid by the employer of the licensee and not entered
against or paid by the licensee. "Employer," as used in this paragraph, means a
professional corporation, a group practice, a health care facility or clinic licensed or
exempt from licensure under the Health and Safety Code, a licensed health care
service plan, a medical care foundation, an educational institution, a professional
institution, a professional school or college, a general law corporation, a public entity, or
a nonprofit organization that employs, retains, or contracts with a licensee referred to in this

1 section. Nothing in this paragraph shall be construed to authorize the employment of,
2 or contracting with, any licensee in violation of Section 2400.

3 (d) The report shall be sent to the Medical Board of California, the Osteopathic
4 Medical Board of California, the California Board of Podiatric Medicine, or the
5 Physician Assistant Board as appropriate, within 30 days after the written settlement
6 agreement has been reduced to writing and signed by all parties thereto, within 30 days
7 after service of the arbitration award on the parties, or within 30 days after the date of
8 entry of the civil judgment.

9 (e) The entity, person, or licensee required to report under subdivision (b) shall
10 notify the claimant or the claimant's counsel, if the claimant is represented by
11 counsel, that the report has been sent to the Medical Board of California, the
12 Osteopathic Medical Board of California, the California Board of Podiatric
13 Medicine, or the Physician Assistant Board. If the claimant or the claimant's counsel
14 has not received this notice within 45 days after the settlement was reduced to
15 writing and signed by all of the parties or the arbitration award was served on the
16 parties or the date of entry of the civil judgment, the claimant or the claimant's
17 counsel shall make the report to the appropriate board.

18 (f) Failure to substantially comply with this section is a public offense
19 punishable by a fine of not less than five hundred dollars (\$500) and not more than
20 five thousand dollars (\$5,000).

21 (g) (1) The Medical Board of California, the Osteopathic Medical Board of
22 California, the California Board of Podiatric Medicine, and the Physician Assistant
23 Board may develop a prescribed form for the report.

24 (2) The report shall be deemed complete only if it includes the following
25 information:

26 (A) The name and last known business and residential addresses of every
27 plaintiff or claimant involved in the matter, whether or not the person received an
28 award under the settlement, arbitration, or judgment.

(B) The name and last known business and residential addresses of every
licensee who was alleged to have acted improperly, whether or not that person was a
named defendant in the action and whether or not that person was required to pay
any damages pursuant to the settlement, arbitration award, or judgment.

(C) The name, address, and principal place of business of every insurer
providing professional liability insurance to any person described in subparagraph
(B), and the insured's policy number.

(D) The name of the court in which the action or any part of the action was
filed, and the date of filing and case number of each action.

(E) A description or summary of the facts of each claim, charge, or allegation,
including the date of occurrence and the licensee's role in the care or professional
services provided to the patient with respect to those services at issue in the claim or
action.

(F) The name and last known business address of each attorney who
represented a party in the settlement, arbitration, or civil action, including the name of
the client the attorney represented.

1 (G) The amount of the judgment, the date of its entry, and a copy of the
2 judgment; the amount of the arbitration award, the date of its service on the parties,
3 and a copy of the award document; or the amount of the settlement and the date it was
4 reduced to writing and signed by all parties and a copy of the settlement agreement.
5 If an otherwise reportable settlement is entered into after a reportable judgment or
6 arbitration award is issued, the report shall include both a copy of the settlement
7 agreement and a copy of the judgment or award.

8 (H) The specialty or subspecialty of the licensee who was the subject of the
9 claim or action.

10 (I) Any other information the Medical Board of California, the Osteopathic
11 Medical Board of California, the California Board of Podiatric Medicine, or the
12 Physician Assistant Board may, by regulation, require.

13 (3) Every professional liability insurer, self-insured governmental agency, or
14 licensee or the licensee's counsel that makes a report under this section and has
15 received a copy of any written or electronic patient medical or hospital records
16 prepared by the treating physician and surgeon, podiatrist, or physician assistant, or
17 the staff of the treating physician and surgeon, podiatrist, or hospital, describing the
18 medical condition, history, care, or treatment of the person whose death or injury is
19 the subject of the report, or a copy of any deposition in the matter that discusses the
20 care, treatment, or medical condition of the person, shall include with the report, copies
21 of the records and depositions, subject to reasonable costs to be paid by the Medical
22 Board of California, the Osteopathic Medical Board of California, the California
23 Board of Podiatric Medicine, or the Physician Assistant Board. If confidentiality is
24 required by court order and, as a result, the reporter is unable to provide the records
25 and depositions, documentation to that effect shall accompany the original report. The
26 applicable board may, upon prior notification of the parties to the action, petition the
27 appropriate court for modification of any protective order to permit disclosure to the
28 board. A professional liability insurer, self-insured governmental agency, or licensee
or the licensee's counsel shall maintain the records and depositions referred to in this
paragraph for at least one year from the date of filing of the report required by this
section.

(h) If the board, within 60 days of its receipt of a report filed under this section,
notifies a person named in the report, that person shall maintain for the period of three
years from the date of filing of the report any records that person has as to the matter in
question and shall make those records available upon request to the board to which
the report was sent.

(i) Notwithstanding any other provision of law, no insurer shall enter into a
settlement without the written consent of the insured, except that this prohibition shall
not void any settlement entered into without that written consent. The requirement of
written consent shall only be waived by both the insured and the insurer.

(j)(1) A state or local governmental agency that self-insures licensees shall,
prior to sending a report pursuant to this section, do all of the following with respect
to each licensee who will be identified in the report:

(A) Before deciding that a licensee will be identified, provide written notice to
the licensee that the agency intends to submit a report in which the licensee may be
identified, based on the licensee's role in the care or professional services provided to
the patient that were at issue in the claim or action. This notice shall describe the
reasons for notifying the licensee. The agency shall include with this notice a
reasonable opportunity for the licensee to review a copy of records to be used by the

agency in deciding whether to identify the licensee in the report.

(B) Provide the licensee with a reasonable opportunity to provide a written response to the agency and written materials in support of the licensee's position. If the licensee is identified in the report, the agency shall include this response and materials in the report submitted to a board under this section if requested by the licensee.

(C) At least 10 days prior to the expiration of the 30-day reporting requirement under subdivision (d), provide the licensee with the opportunity to present arguments to the body that will make the final decision or to that body's designee. The body shall review the care or professional services provided to the patient with respect to those services at issue in the claim or action and determine the licensee or licensees to be identified in the report and the amount of the settlement to be apportioned to the licensee.

(2) Nothing in this subdivision shall be construed to modify either the content of a report required under this section or the timeframe for filing that report.

(k) For purposes of this section, "licensee" means a licensee of the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board.

9. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

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COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Sexual Misconduct)**

3 11. Respondent Colin Porus Dias, M.D. is subject to disciplinary action under section 726
4 of the Code in that he engaged in sexual misconduct. The circumstances are as follows:

5 12. Patient 1¹ began treatment at Hathaway-Sycamore Child and Family Services
6 (Hathaway) in approximately February 2012. Her care was transferred to Hathaway from
7 Children's Institute, Inc. after she aged out of the services provided there at the age of 16. During
8 the course of her treatment at Children's Institute and Hathaway, her diagnoses included
9 Attention Deficit Hyperactivity Disorder, Post-Traumatic Stress Disorder related to reported
10 childhood sexual abuse, dysthymic disorder (a chronic form of depression), and major depressive
11 disorder.

12 13. Patient 1 received psychological services through Hathaway from D.B., Psy.D. (Dr.
13 D.B.) on a schedule of approximately twice per week. Dr. D.B conducted sessions with Patient 1
14 both at her home and at school.

15 14. Until September 2013, Patient 1 received psychiatry services, including medication
16 management, from O.R., M.D., through Hathaway.

17 15. Beginning in September 2013, Respondent began providing psychiatric services to
18 Patient 1. At that time, Respondent was employed by Hathaway as a contractor.

19 16. When Respondent was alone with Patient 1 during their sessions, Respondent asked
20 the patient details relating to her sexual life, including questioning her about her fantasies during
21 masturbation.

22 17. Patient 1 presented for a session with Respondent on March 17, 2014, less than one
23 month after she turned 18 years old. The patient's mother joined the beginning of the session;
24 however, she then waited outside of Respondent's office while Respondent and Patient 1 met
25 privately.

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28 ¹ The patient is referenced by number to protect her privacy.

1 18. During the session, Respondent asked Patient 1 questions of a sexual nature. Patient
2 1 revealed that she fantasized about Respondent. Respondent asked Patient 1 to open her legs and
3 masturbate. Patient 1 did so.

4 19. Respondent remained at his desk and did not expose himself to Patient 1; however,
5 she heard him unzip his pants, saw him clean himself with a tissue and then throw the tissue in
6 the trash, and she heard him re-zip his pants.

7 20. On that same date, Patient 1 attended a session with Dr. D.B. at her home. Patient 1
8 disclosed the details of the visit with Respondent to Dr. D.B.

9 21. Respondent's actions during his treatment of Patient 1 on or around March 17, 2014,
10 constitute sexual misconduct pursuant to Business and Professions Code section 726, and
11 Respondent's license is subject to discipline.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct, Failure to Report Settlement)**

14 22. Respondent Colin Porus Dias, M.D. is subject to disciplinary action under sections
15 801.01 and 2234, subdivision (a) of the Code. The circumstances are as follows:

16 23. On or about April 2017, Respondent entered into a settlement agreement of a civil
17 complaint containing allegations relating to Respondent's care of Patient 1, including the
18 allegations set forth in the First Cause for Discipline, in California Superior Court, County of Los
19 Angeles, Case No. BC563455. The amount of the settlement exceeded the \$30,000 reporting
20 limits set forth in section 801.01 of the Code, and a report of settlement to the Board was
21 required. However, no report of settlement was provided.

22 24. Respondent committed unprofessional conduct when he failed to report and/or ensure
23 the reporting of the settlement reached in Case No. BC563455, and his license is subject to
24 discipline and to a fine, pursuant to section 801.01, subdivision (f).

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:

4 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 84321,
5 issued to Respondent Colin Porus Dias, M.D.;

6 2. Revoking, suspending or denying approval of Respondent Colin Porus Dias, M.D.'s
7 authority to supervise physician assistants and advanced practice nurses;

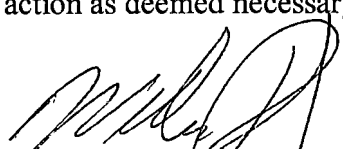
8 3. Ordering Respondent Colin Porus Dias, M.D., to pay the Board the costs of the
9 investigation and enforcement of this case, and if placed on probation, the costs of probation
10 monitoring;

11 4. Ordering Respondent Colin Porus Dias, M.D., if placed on probation, to provide
12 patient notification in accordance with Business and Professions Code section 2228.1;

13 5. Ordering Respondent Colin Porus Dias, M.D. to pay a fine of not less than five
14 hundred dollars (\$500) and not more than five thousand dollar (\$5,000), pursuant to Business and
15 Professions Code section 801.01, subdivision (f); and

16 6. Taking such other and further action as deemed necessary and proper.

17
18 DATED: OCT 28 2022


19 _____
20 WILLIAM PRASIFKA
21 Executive Director
22 Medical Board of California
23 Department of Consumer Affairs
24 State of California
25 Complainant

23 LA2022603353